IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Cr.A.No.11 of 2001

Reserved on 27.11.2007

Date of decision 7.12.2007

State of H.P. Appellant

Versus

Rajinder Singh Respondent

Coram:

The Hon'ble Mr. Justice Rajiv Sharma, Judge.

Whether approved for reporting?[1] No.

For the appellant: Mr.M.S.Chandel, Advocate General with M.A.Khan with Ms.Meenakshi Sharma, Deputy Advocate Generals.

For the respondent: Ms.Devyani Sharma, Advocate,

Rajiv Sharma,J.

The respondent was accused in Criminal Case No.54/2 of 1998 and he was prosecuted under Section 304-A of the Indian Penal Code in the court of Sub Divisional Judicial Magistrate, Nalagarh District Solan and was acquitted on 31.5.2000. The State has filed the present appeal against the acquittal of the respondent.

The facts in brief are that on 1.8.1997 Pankaj Kumar (deceased) was in night shift in M/s Nirmal Spinning Mills, Baddi. He got electric shock while extracting ash from the boiler in the factory premises. On the basis of Ruka, FIR Ex.PW7/B was registered. Vide Ex.PW2/C inquest was conducted on the dead body. Dr.A.K.Tiwari conducted the post mortem of the deceased and found that the deceased died due to electric shock. He issued his report Ex.PW1/B. After the completion of the investigation challan was prepared and presented before the Court.

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[1] Whether reporter of local papers is allowed to see the judgment? No.

The notice of accusation for commission of offence punishable under Section 304-A of I.P.C. was framed against the respondent who pleaded not guilty and claimed to be tried. The prosecution to prove the case examined as many as ten witnesses. The respondent was acquitted of the offence punishable under section 304-A of the IPC by the trial court on 31.5.2000, hence the State is in appeal.

I have heard learned counsel for the parties and have also gone through the record of the case meticulously.

Mr.M.S.Chandel learned Advocate General had strenuously argued that the prosecution has proved the case against the accused. He then contended that the trial court had not properly appreciated the evidence on record and has erred in acquitting the accused. Ms.Devyani Sharma learned counsel appearing for the respondent had supported the judgment dated 31.5.2000.

Dr.A.K.Tiwari (PW-1) has conducted the postmortem of the deceased. According to his report the deceased had died due to electric shock. PW-4 Krishan Dev Khosla is the Chief Electrical Inspector and as per his report the accident had taken place due to putting the hot shovel on old and rusted conduit while extracting the ash. He has further stated in his report that instead of flexible conduit, G.I. conduit should have been used from some distance from the ash door of boiler. The accused in no manner was responsible for laying the electric lines. It was the responsibility of the owner of the factory to ensure that safe material was used more particularly in or around the boiler to avoid any mishap. There is no evidence on record to suggest that the accused was to perform the function of laying the electric wires etc with proper insulation. It is apparent that the proper material has not been used by the owner of the factory which has led to the mishap on 1.8.1997resulting in the death of Pankaj Kumar.

Consequently, the prosecution has failed to prove that the accused was in any manner responsible for the death of Pankaj Kumar. The

prosecution has failed to prove its case against the accused. The accused has rightly been acquitted by the trial court. Therefore, the judgment passed by the trial court calls for no interference. The appeal is accordingly dismissed. The bonds furnished by the accused are discharged.

December 7,2007(g) **(Rajiv Sharma), J.**